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Substitute Preliminary Amendment

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of

Jan Vijg

Serial No.  
[Continued Prosecution Application (CPA)  
of parent application Serial No. 09/306,333  
filed May 6, 1999]

Art Unit: 1655

Filed:

Examiner: Souaya, J.E.

For: BRCA 1 and bMLH I Gene Primer Sequences And Method For Testing

Hon. Commissioner of Patents  
and Trademarks  
Washington, DC 20231

Dear Sir:

In response to the Notice of Non-compliant amendment this is a substitute preliminary amendment for the continued prosecution application which has been necessitated in view of new issues raised in the current Office action (final rejection) of December 19, 2001, which replaced the earlier withdrawn final rejection.

The Office has explained (page 9 of said current Office action) that because "the Examiner erroneously indicated that the use of clamping and linking sequences constituted unexpected results", leading applicant to amend the claims accordingly, "the finality of the previous Office action has been withdrawn, and a new final rejection (the current Office action), addressing issues brought about by the amendment of the specification and claims after the first Office action", has been substituted.

In view of the subsequent heavy foreign and other business travel and related activities of both the applicant and counsel, it has taken all of the intervening months for applicant (now based in Texas) and counsel (in Boston) to locate and coordinate on further evidence, including mislaid publication and other materials, to satisfy the new Office requirement for a showing of "unexpected and improved results" attained by the invention over "obvious" variations of the Office-proposed combination of applicant's earlier teachings (referred to as "Vijg and Vijg II" by the Office).